

Zoning Board of Appeals Minutes 03/12/2014

MASHPEE ZONING BOARD OF APPEALS MARCH 12, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, March 12, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Chairman, Jonathan Furbush, Vice Chairman, William A. Blaisdell, Board Member, James Reiffarth, Associate Members Domingo K. DeBarros and Scott Goldstein were present. Building Commissioner, Richard Morgan was also present. Board Members Ron Bonvie and Richard Jodka were absent.

Chairman, Jonathan Furbush opened the meeting at 6:00 p.m. and announced that the meeting was being televised live on local Mashpee television.

PLEDGE OF ALLEGIANCE

NEW HEARINGS

Donald S. Bellis and Susan E. Dacey-Bellis: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a new single family dwelling on property located in an R-3 Zoning District at 150 Waterway, (Map 105 Parcel 237), Mashpee, MA.

Attorney, Kevin Kirrane representing the applicants, Donald and Susan Bellis, for the raze and replace project. He provided the Board a written narrative, a land court plan, and pictures of the job site. He stated that Tim Luff, of Archi-Tech Associates will be available to answer any questions regarding the proposed plans of the new dwelling.

The property currently exists on 17,500 square feet with 100 feet of frontage and is a pre-existing non-conforming lot. Mr. Kirrane provided the Board a subdivision plan of Waterway showing the boundary on Popponesset Creek. There has been significant substantial changes in typography of the lot that drops off from Waterway down to the water as shown in the photographs.

The current building was constructed back in the late 1960's with "texturized 111" sheathing and was consistent with other homes in the neighborhood, but is out of character with current homes. The Bellis' have handicapped children, one of whom is confined to a wheelchair so they would like to install an elevator. The option to retrofit the existing building for handicap accessibility is not practical with the design of the current home.

The existing structure is non-conforming with one of the side yard setbacks at 10.2 feet and 15 feet is required. The front yard setback is 30.7 feet, and 40 feet is required. The distance from the wetland is 41 feet and 50 feet is required. There is also an accessory dock, pier and float on the lot.

The new home design depicts a 2-story, 3-bedroom dwelling. In addition, there will be a new Title 5 septic system incorporated into the project as part of the proposal. The proposed structure will have a footprint of 2,995 square feet which represents a 19.96% lot coverage; compliant with the required 20% lot coverage. The building as proposed will sit back approximately 26.3 feet from will bring it closer to Waterway, but will become compliant on the sidelines, where it was not compliant before. That one side yard will be 22.7 feet and 17 feet on the other side. In addition, it will be compliant with the 50 foot setback requirement from the wetlands, and will improve to 53 feet from the wetlands.

The Board knows the bylaw does allow for alteration changes, extensions to pre-existing non-conforming structures, as it relates to this raze and rebuild project. The fact the design is still non-compliant in the front yard, made this obligation to submit this application to the Board for special permit relief and the Board would have to make a finding that the proposed is not substantially more detrimental to the neighborhood than what currently exists, and has adequate setbacks and parking on site to service the needs of the occupants of the proposed structure. The

project was approved by both Conservation and Board of Health Departments.

Jonathan asked if the house is being lifted. Kevin stated the elevation of the garage is being lifted in order to accommodate a wheelchair. The height is 35 feet.

Tim Luff stated the design of the home accommodates the new flood maps. The new basement and all living space will be behind the new FEMA line and will be an appropriate height. Also the structural engineer will design the deck to meet the velocity zone requirements.

Jonathan read the comments from Conservation into the record, "The Conservation Commission unanimously approved this application at their February 27, 2014 hearing. The applicants requested a waiver from the regulatory requirements of the Ch. 172 Wetland bylaw to allow for some encroachment into the 50' setback from the wetland edge in the interest of accommodating a handicap access ramp."

Jonathan read the comments from the Harbormaster into the record; "The Harbormaster requires that the dock/floats must be updated to black hard plastic encapsulated block flotation and all the foam/Styrofoam be removed and disposed of properly. This will help eliminate the issue of storm bourn debris on our bays, lakes and rivers. Also that the street address must be permanently and clearly displayed with minimum of 3" block letters with contrasting color at end of pier/piling for emergency purposes, and in addition to the owners address be permanently affixed on all floats and ramps with 3" block letters with contrasting color. Otherwise, The Harbormaster has no issue with this plan."

Jonathan read the comments from the Board of Health into the record; "Title V design plan approved 2/21/14 for 3 bedrooms."

Bill Blaisdell made a motion to approve Donald S. Bellis and Susan E. Dacey-Bellis request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a new single family dwelling on property located in an R-3 Zoning District on property located at 150 Waterway, (Map 105 Parcel 237), Mashpee, MA. Referencing plot plan submitted by BSS Design Engineering & Surveying entitled; "Plot Plan-Proposed House and Subsurface Sewage Disposal System at 150 Waterway, Mashpee, MA. Prepared for Don Bellis, scale 1" = 20', dated January 31, 2014, drawn EJP, job number 13103, title sheet 1 of 3, drawing number P21-55. Also Architectural Design Plans submitted by Archi-Tech Associates Inc., entitled Bellis Residence 150 Waterway, Mashpee, MA, Job No: 1314, dated February 6, 2014, scale: as noted, drawn: JLW, A4-A5. The Board determined that the proposed dwelling will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood, and will have adequate setbacks and parking as may be required.

Mr. Reiffarth, seconded, yes, Mr. Furbush, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

ASD Realty Trust, Alfred S. DeFazio, Trustee: Request a Special Permit under §174-25.I (9) of the Zoning By-laws to allow for construction of a landing, stairs, pier, ramp and float extending across a total of more than seventy feet of coastal beach, coastal bank, salt marsh, or bordering vegetated wetlands and/or coastal wetlands, on property located in an R-3 Zoning District at 204 Captains Row, (Map 90 Parcel 2), Mashpee, MA.

ASD Realty Trust, Alfred S. DeFazio, Trustee: Request a Variance under Article V §174-31 (Land Space Requirements) of the Zoning By-Laws to vary the side yard setback from property line to allow for construction of a dock, pier, and float, on property located in an R-3 Zoning District at 204 Captains Row, (Map 90 Parcel 2), Mashpee, MA.

Attorney, Kevin Kirrane, representing Mr. DeFazio stated that his hearing was continued with the Conservation Commission and they did not have the opportunity to act and as a result requested a continuance until the next Zoning Board hearings scheduled May 14, 2014.

Mr. Furbush mentioned there was an issue with the mitigating plantings and need to be addressed. He is also concerned with the project because the pool and deck were built without permits.

Mr. Kirrane will speak with his client about the issues regarding the pool, deck and order of conditions, and let him know the Board will not act until he brings his property into compliance. Mr. Furbush also suggested Mr. Kirrane speak with Conservation regarding these issues.

Mr. Furbush made a motion to continue the petition until May 14, 2014 hearings, yes, Mr. Blaisdell, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes, Mr. DeBarros, yes. All were in favor.

Jay J. and Elizabeth A. Derenzo, Trustees: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a new single family dwelling and accessory pool on property located in an R-3 Zoning District located at 134 Popponesset Island Road, (Map 112 Parcel 8), Mashpee, MA.

Attorney, Kevin Kirrane, representing Jay and Elizabeth Derenzo for the raze and replace project at 134 Popponesset Island Road. He provided the Board a written narrative, a land court plan, and pictures of the job site. This lot is bounded on one side by Popponesset Island Road and on the other side is Popponesset Bay. This lot is a non-conforming lot containing 27,500 square feet of total land area, 24,100 square feet of upland. The site is currently improved with a 2,000 square foot ranch style dwelling which consists of three bedrooms, and there are accessory structures on the site which includes a swimming pool and a large raised patio in the rear of the dwelling. It also has a pier, dock and float complex as well.

The existing dwelling is a non-conforming structure that fails to meet the 50 foot setback from the wetlands and also exceeds the allowable 20% lot coverage. The Derenzo's are proposing to remove their ranch style structure that dates back to the 1960-1970's and replace it with a new dwelling which will have five bedrooms. They also are proposing to install a new pool removing the existing raised patio and pool and will retain the pier, dock, and float complex. This proposal also involves the installation of a new Title 5 septic system which will be located in the front of the proposed structure.

The existing lot coverage on this property, raised patio, pool and pool house consists of 25.68%. The proposed lot coverage will be 25.03% which is a 1.5 feet reduction of the existing lot coverage. He stated the dwelling will conform to the side yard setback requirement of 15 feet; it's 15.7 feet on one side and 15.8 feet on the other side.

The dwelling will comply with the 40 foot front yard setback requirement depicting 43.5 feet from Popponesset Island Road. Although it does not comply with the 50 foot wetland setback requirement, it will improve by 2 feet with the proposed new pool at 23 feet reducing the overall lot coverage by more than 1.5%.

This proposal has been approved by Conservation, and the five bedroom septic system was approved by Board of Health. Mr. Kirrane stated the substantial increase in value, and the overall improvement of the structure will conform to current day zoning requirements. It will be a substantial upgrade to the property, and will not result in a substantial detriment to the neighborhood. There is also plenty of parking on site, and other than the setback to the seawall, the project complies with all other setback criteria.

Mr. Furbush asked if most of the dwelling is on flood zone A13 elevation 11. Tim Luff stated the flood line goes along the seawall and in front across the two garages, and will have flood vents, but the elevation of the mud room is above elevation 11 and will have a slab. It was designed so the basement is not in the flood zone.

Mr. Furbush asked if there will be a problem with the bottom of the stairs showing 13.9 feet along Lot 49. Mr. Kirrane stated there is no issue because the stairs do not have to comply with the setback criteria. Tim Luff stated he spoke to Tom Bunker, Engineer, BSS Design and the landscape architect "massaged" the grades and elevations by eliminating the step and tweaked the platform and will redesign to comply with the 15 feet.

Mr. Goldstein read a letter dated March 6, 2014, submitted by Catanzaro and Allen, Attorneys, into the record stating they represent the abutters at 140 Popponesset Island Road, and objects to the project. Mr. Furbush read an email dated March 12, 2014, from Gerry Carroll summarizing he objects to the project.

Mr. Furbush read comments from Conservation into the record; "This project was unanimously approved by the Concom on February 27, 2014, no issues", and comments from Board of Health into the record; "Title 5 design plan as approved on 3/7/14 for five bedrooms, no denite required."

Mr. Michael Price, Trustee to the 128 Popponesset Island Road abutting to the left of the Derenzo property stated he has no objections to the project, however he is concerned with the noise from the pumps and filters for the pool. He wants to make sure the mechanical building will be equipped with sound proofing.

Tim Luff stated the new pool house is about 15.5 feet further away from the property line, and closer to the water. He will work with the landscape architect, the homeowners, and Mr. Price to discuss an appropriate location to put the pool equipment and the best way to insulate the noise.

Mr. Kirrane approached the Board and commented on the abutter letters. He stated that it has been suggested that the project was expanding the non-conformity which is not the case. It's a fact, the sideline setbacks are applicable in this zoning district and allows to increase to 15 feet. He stated the project complies with the front yard setback and improving the setbacks to the wetlands, therefore not increasing the non-conforming aspects of this dwelling and reducing the total lot coverage.

Mr. Blaisdell made a motion to approve Jay J. and Elizabeth A. Derenzo, Trustees request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure

to allow for construction of a new single family dwelling and accessory pool on property located in an R-3 Zoning District on property located at 134 Popponesset Island Road, (Map 112 Parcel 8), Mashpee, MA. Referencing plot plan submitted by BSS Design Engineering & Surveying entitled; Plot Plan-Proposed House, 134 Popponesset Island Road, Mashpee, MA. Prepared for Jay Derenzo, Scale 1"=20', dated February 13, 2014, drawn EJP, job number 12082, title sheet 1 of 3, drawing number B21-81. Also referencing house plan entitled; "Derenzo Residence", 134 Popponesset Island Road, Mashpee, MA, Elevations, by Archi-Tech Associates, Job No.: 1326, dated as noted, scale: 1/8" = 1', drawn: KMW. The Board determined that the proposed dwelling will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood, and will have adequate setbacks and parking as may be required.

Mr. Reiffarth, seconded, yes, Mr. Furbush, yes, Mr. Goldstein, yes, Mr. DeBarros, yes. All were in favor.

Karen A. Ciejek: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a new deck on property located in an R-3 Zoning District located at 73 Whippoorwill Circle, (Map 125 Parcel 156), Mashpee, MA.

Mr. Darrell Chapman, represented the applicant for reconstruction of the proposed deck. The site plan depicts the proposed farmer's porch style deck with 6 foot 6 dimensions along the side and front of the dwelling, but encroaching on the 40 foot setback, therefore asking for relief. It's a farmer's porch style deck. There's a front step that sticks out about 3 feet that is covered and will be removed. The deck will go across the front and down the one side and connect to the existing deck in the back.

Mr. Furbush asked how close the deck will be to the wetlands. Mr. Chapman stated he met with Conservation and was outside the buffer by 12 feet. The closest point to the wetlands on the existing deck is 11.3 feet. It will become approximately 15 feet closer on the sides.

Mr. Furbush read a comment from Conservation into the record; "This project was approved by Concom on February 27, 2014, no issues."

Mr. Blaisdell made a motion to approve Karen A. Ciejek, request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a new deck on property located in an R-3 Zoning District located at 73 Whippoorwill Circle, (Map 125 Parcel 156), Mashpee, MA. Referencing a Certified Plot Plan by Cape & Islands Engineering, 73 Whippoorwill Circle in Mashpee, MA. Sheet 1 of 1, dated 2/11/14, scale; as noted, DWG file: Whippoorwill, 73 Ciejek. The Board determined that the proposed structure will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood, and will have adequate setbacks and parking as may be required.

Mr. Reiffarth, seconded, yes, Mr. Furbush, yes, Mr. Goldstein, yes, Mr. DeBarros, yes.

OTHER BUSINESS:

Mr. DeBarros, made a motion to approve February 26, 2014 Meeting Minutes. Mr. Furbush seconded, yes, Mr. Blaisdell, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes. All were in favor.

Mr. Reiffarth made a motion to adjourn, Mr. Furbush, seconded, yes, Mr. Blaisdell, yes, Mr. Goldstein, yes, Mr. DeBarros, yes.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals